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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/902,975	07/11/2001	Klaus Doelle	VOI0197.US	9726

7590

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EXAMINER

HASTINGS, KAREN M

ART UNIT

PAPER NUMBER

1731

DATE MAILED: 03/06/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No. 09/902975

Applicant(s)

Examiner

HASTINGS

Group Art Unit

1731

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☒ Responsive to communication(s) filed on 12/30/02
- ☒ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 1 1; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1-21 is/are pending in the application.
- Of the above claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 1-21 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
 - ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
 - ☐ received in Application No. (Series Code/Serial Number) _____.
 - ☐ received in this national stage application from the International Bureau (PCT Rule 1 7.2(a)).

*Certified copies not received: _____

Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☐ Interview Summary, PTO-413
- ☐ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other _____

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Claims 1-10 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Kriebel et al. '865.

Kriebel et al. is applied for the reasons set forth on pages 3 and 4 of the last Office action. Furthermore Kriebel et al. at column 3 lines 20-25 teach that the rows of teeth can be moved relative to one another at a distance about 3 mm, as even admitted by applicants on page 6 of the response. Applicant has amended claim 1 (and claim 12) to recite a gap of .5 mm to 100 mm. The 3mm taught in Kriebel et al clearly falls within the newly recited range. Thus it is not seen that this newly added limitation distinguishes over the teachings of Kriebel et al. '865.

Claims 4 and 12-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kriebel et al. '865 with Berggren.

These references are applied for the same reasons as set forth on pages 4 and 5 of the last Office action, further noting the comments made above with respect to the newly added limitation of .5 to 100 mm gap.

Claims 1-21 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Kriebel et al. as necessary with Berggren, further as necessary with Klungness et al.

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These references are applied as set forth on pages 5-6 of the last Office action; furthermore noting the comments made above that Kriebel et al. teaches a gap of 3 mm which falls within the recited .5 to 100 mm recitation now claimed. Klunness et al clearly teaches using a refiner to load/mix the calcium carbonate into fibers. To optimize the refiner gap of Kriebel et al to perform the known function of loading calcium carbonate would have been *prima facie* obvious. It is well settled that optimizing a known result effective variable, that is, the size of the refining gap in a refiner, is *prima facie* obvious; see *In re Boesch* 205 USPQ 215 (CCPA 1980).

Applicant's arguments filed December 30, 2002 have been fully considered but they are not deemed to be persuasive.

Applicant's main argument is that Kriebel teaches a process and apparatus wherein a gap not greater than about 3 mm is needed (see page 6 of December 30, 2002) and that applicant's claims recite a gap between .5 mm and 100 mm. It is not seen how applicant's claims define over Kriebel et al.'s teaching since a gap not greater than 3 mm clearly falls within a gap as recited in the claims between .5 mm and 100 mm.

Klunness et al clearly teaches using a pressurized refiner to load/mix the calcium carbonate into fibers. To optimize the pressurized refiner gap of Kriebel et al to perform the known

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function of loading calcium carbonate (as taught by Klungness et al, a pressurized refiner may be used for this function) would have been *prima facie* obvious. It is well settled that optimizing a known result effective variable, that is, the size of the refining gap in a refiner, is *prima facie* obvious; see In re Boesch 205 USPQ 215 (CCPA 1980).

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 C.F.R. § 1.136(a).

A SHORTENED STATUTORY PERIOD FOR RESPONSE TO THIS FINAL ACTION IS SET TO EXPIRE THREE MONTHS FROM THE DATE OF THIS ACTION. IN THE EVENT A FIRST RESPONSE IS FILED WITHIN TWO MONTHS OF THE MAILING DATE OF THIS FINAL ACTION AND THE ADVISORY ACTION IS NOT MAILED UNTIL AFTER THE END OF THE THREE-MONTH SHORTENED STATUTORY PERIOD, THEN THE SHORTENED STATUTORY PERIOD WILL EXPIRE ON THE DATE THE ADVISORY ACTION IS MAILED, AND ANY EXTENSION FEE PURSUANT TO 37 C.F.R. § 1.136(a) WILL BE CALCULATED FROM THE MAILING DATE OF THE ADVISORY ACTION. IN NO EVENT WILL THE STATUTORY PERIOD FOR RESPONSE EXPIRE LATER THAN SIX MONTHS FROM THE DATE OF THIS FINAL ACTION.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Hastings whose telephone number is (703) 308-0470. The examiner

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can normally be reached on Monday through Thursday from 6:30 A.M. to 5 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Steve Griffin, can be reached on (703) 308-1164. The fax phone number for this Group is (703) 305-7115.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0651.


Karen M. Hastings
Senior Primary Examiner
Art Unit 1731

KMH/cdc
March 5, 2003

3/2003